

FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2013

WEDNESDAY, MARCH 21, 2012

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 2:54 p.m., in room SD-138, Dirksen Senate Office Building, Hon. Richard J. Durbin (chairman) presiding.

Present: Senators Durbin, Lautenberg, and Moran.

COMMODITY FUTURES TRADING COMMISSION

STATEMENT OF HON. GARY GENSLER, CHAIRMAN

OPENING STATEMENT OF SENATOR RICHARD J. DURBIN

Senator DURBIN. Good afternoon. I am pleased to convene this kick-off hearing of the Senate Appropriations Subcommittee on Financial Services and General Government.

Let me extend my apology to my colleagues first, the chairman, and those in attendance. This is an historic day in the United States Senate. Senator Barbara A. Mikulski surpasses the length of service in the Senate of any woman before her.

And tributes are being given on the floor, and I joined in those. It took a little longer than I thought it might, and I hope you understand, this doesn't happen often. But we are honored to serve with her and joined on the floor on a bipartisan basis to say so. So that's the reason I'm late.

Today, we're going to be focusing on the resource needs of Commodity Futures Trading Commission (CFTC). I welcome Senator Jerry Moran, my distinguished Ranking Member, Senator Lautenberg, and those others who may join us.

Honorable Gary Gensler, Chairman of the CFTC, is joining us today. I've asked him to share how his agency is investing the \$205 million in resources this fiscal year, and the challenges he faces in years to come.

PREPARED STATEMENT

I'm going to ask consent that my opening statement be made part of the record, and I'm going to turn at this point to Senator Moran, and see if he has an opening statement.

[The statement follows:]

PREPARED STATEMENT OF SENATOR RICHARD J. DURBIN

Good afternoon. I am pleased to convene this kick-off hearing as we evaluate the fiscal year 2013 funding requests of the agencies within the jurisdiction of the appropriations Subcommittee on Financial Services and General Government. Today, we will be focusing on the resource needs of the Commodity Futures Trading Commission (CFTC).

I welcome my distinguished ranking member, Senator Jerry Moran, and other colleagues who have joined me on the dais today, and others who may arrive during the course of these proceedings.

Joining us today is the Honorable Gary Gensler, Chairman of the CFTC. I have invited him to share how the agency is investing the \$205 million in resources provided in fiscal year 2012 and the challenges CFTC faces in handling its tremendously expanded responsibilities under tight budgetary circumstances. Chairman Gensler will also explain the details and rationale for CFTC's \$308 million funding request for fiscal year 2013.

CFTC occupies a pivotal position at the forefront of stimulating and sustaining economic growth and prosperity in our country—while protecting the marketplace from fraud and manipulation.

CFTC carries out market surveillance, compliance, and enforcement programs in the futures arena. CFTC detects, deters, and punishes abusive trading activity and manipulation of commodity prices, which could have negative impacts on consumers and the economy.

Futures market users (farmers, ranchers, and producers), financial investors, and the U.S. economy rely on vigilant oversight by CFTC in today's rapid-paced, evolving, and often volatile global marketplace.

Adding to the challenge of CFTC's mission is a significantly transformed, globalized, round-the-clock, and highly diversified marketplace. Rapid, electronic, algorithmic trading platforms are replacing the traditional open-outcry trading floors.

And with the enactment of Dodd-Frank Act financial regulatory reform nearly 2 years ago, CFTC's mission was substantially expanded to embrace oversight of the swaps marketplace—the vast “once-in-the-shadows” world of over-the-counter (OTC) derivatives.

To grasp the vast scope of CFTC's oversight responsibilities, it is useful to consider that the long-regulated U.S. futures marketplace historically policed by CFTC has a notional value of approximately \$37 trillion. That's enormous, by anyone's calculation.

But it pales in comparison to the more complex and unregulated OTC swaps marketplace now coming under CFTC's purview—with a notional value estimated at \$300 trillion—eight times the notional amount of the regulated futures markets.

I am pleased that over the past several years, even with reduced allocations, this subcommittee has been able to substantially boost the funding approved for CFTC to help address pressing resource needs.

In terms of resources in recent years, funding for CFTC has increased from \$97.981 million in 2007 to the \$205.3 million enacted level for fiscal year 2012. That growth represents a 110 percent hike in funding over 5 years. Despite the funding boosts, I acknowledge that this year has been particularly challenging for the CFTC, given the demands and timetable of Dodd-Frank Act implementation.

Looking ahead, for fiscal year 2013, the President seeks funding of \$308 million, an increase of nearly \$103 million, or a 50 percent hike, more than the current year funding. This increase will support 1,015 full-time equivalents (FTE), an additional 305 FTE, or a 43 percent increase in staffing, compared to the 710 current FTE level.

I commend CFTC's initiative to organize and present its budgetary justification materials for fiscal year 2013 by mission activity. This helpful display provides a clearer window into how additional resources that may be made available will build upon foundational baselines of current spending by function. It also allows for a better assessment of how the performance of various activities conducted by CFTC—from exams to product and rules reviews, from economic analysis to registrations—may be enhanced with the infusion of additional budget authority.

Oversight of agencies and programs through the appropriations process, including public hearings like this, are an opportunity for an annual check-up and review of operations and spending.

I look forward to hearing more about what CFTC has accomplished since our hearing last May, what resource gaps remain to be filled so CFTC may be a more robust and responsive regulator, and how we can help CFTC better perform its mission amid growing deficits and spending cut sentiments.

And before turning to Senator Moran for his remarks, I would ask that the record reflect that, like other cyclical rites of spring—pitchers and catchers reporting, the March Madness basketball tournament, and the scent of cherry blossoms in the air—we are again experiencing escalating gasoline prices.

Yes, gas prices are rising. In Illinois, prices are more than \$4.40 per gallon in some areas. It's the same story every year: right before the summer, gas prices skyrocket. However, this year, high gas prices may harm our economic recovery as families needing to spend more of their incomes on gas have less to spend on other necessities.

I support the President's energy policy to reduce our reliance on foreign sources of energy, including oil. But what can we do to ensure excessive speculation is not contributing to the high cost of gas in the short-term?

In October 2011, CFTC adopted a rule on position limits for 28 commodities including oil that will go into effect 60 days after CFTC and the Securities and Exchange Commission define the term "swap"—an action CFTC expects to take in April—and after 1 year of data collection which should be completed in August.

However, August is near the end of summer, so I will appreciate hearing about other actions CFTC can take in its oversight role of the oil futures market to ensure that excessive speculation is not harming families at the gas pump.

STATEMENT OF SENATOR JERRY MORAN

Senator MORAN. Mr. Chairman, I very much appreciate you conducting this hearing. I look forward to the Chairman's testimony, and I'll submit mine for purposes of speeding up the process, I'll submit my opening statement for the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR JERRY MORAN

Chairman Durbin, thank you for calling this hearing to consider the fiscal year 2013 budget request for the Commodity Futures Trading Commission (CFTC). Welcome Chairman Gensler.

As we review the budget submission for CFTC, I look forward to hearing the details of your request, your plan to carry out your core mission, and your efforts to implement the Dodd-Frank Act.

Chairman Gensler, as you have said, derivative markets and effective oversight of those markets matter to corporations, farmers, homeowners, and small businesses. We all benefit from effective oversight that promotes fair and orderly derivative markets.

However, to create the rules of the road necessary to the efficiency of such markets and to assist the businesses that are dependent upon them, we must also have an orderly and transparent process which outlines how they should work. While the financial crisis highlighted the need for better regulation of our financial markets, we must ensure that the significant cost and complexity of regulations you and other regulators are crafting, don't have the unintended effect of hampering the ability of market participants to hedge risk in a cost-effective manner and ultimately drive capital and jobs away from the United States to overseas markets.

We continue to hear concerns about the inadequacy of the cost-benefit analysis in proposed and final rulemakings. The cost-benefit and application of rules must be carefully considered. Speed should not be valued over deliberation.

Given the significant impact these rules will have across the financial industry and our economy, the rules must be justified and workable. Lack of sound cost-benefit analysis may also result in legal challenge which will lead to further uncertainty.

The need for transparency and accountability in our financial markets also extends to those who regulate them. There is still a need for more clarity in the sequencing of the rules. Without a clearly understood roadmap for implementation, rather than a random mosaic of rules, it will be more difficult for us to be on path to a fair and orderly marketplace and difficult to establish appropriation priorities.

This call for a roadmap is intended to foster transparency and broaden understanding. For any new regulatory framework to be effective, everyone involved must have a clear appreciation of their roles and responsibilities in the new system and how these changes will evolve in a logical sequence.

The credibility of any regulatory framework is also critical to ensuring its success. I continue to be concerned by the lack of answers from government regulators and from MF Global about how the shortfall in customer funds occurred and when Kan-

sas farmers and ranchers will be able to recover all of their money. There is a crisis of confidence now and I will continue to do what I can to ensure that the bankruptcy process moves as fairly and expeditiously as possible so that Kansans receive both answers and their money.

Chairman Gensler, I understand that CFTC is faced with significant challenges in carrying out its core mission and implementing the Dodd-Frank Act. Innovations in the financial services arena present regulators with increasingly complex markets to regulate. Technological solutions will continue to be necessary to drive cost savings and keep up with trading platforms and systems that operate at a record-breaking pace.

However, at a time when our national debt stands at more than \$15 trillion, we cannot afford to ignore our country's fiscal reality by failing to make difficult decisions to address our debt and deficit problem. We cannot continue to address our problems by instituting new taxes, increasing spending, and increasing our already record debt.

As Members of Congress, and particularly as members of the Senate Appropriations Committee, we have a responsibility to work to get our fiscal house in order. This requires us to balance important needs and priorities across the Government—from investing in critical medical research that not only saves lives but also helps create thousands of jobs and drives economic growth—to protecting investors, who turn to markets to help secure their retirements, pay for homes, and send their children to college.

In accordance with the Budget Control Act signed into law last year, these priorities must be considered in the context of statutory caps on discretionary spending.

In this environment, all Federal agencies must redouble efforts to achieve cost savings, work more efficiently, and make careful and prudent decisions based on demonstrated need as to how to best allocate scarce resources.

Staffing must be managed to prevent growth to unsustainable levels. Agencies must make decisions on resource allocations based on CFTC's mission responsibilities, but also grounded in budget reality. Simply increasing funding does not ensure that an agency can successfully achieve its mission and frankly is not a realistic option given current fiscal constraints.

Mr. Chairman, thank you again for calling this hearing. I look forward to working with you as we consider the fiscal year 2013 budget request of CFTC and other agencies within this subcommittee's jurisdiction.

Senator DURBIN. Thank you, Senator Moran. Senator Lautenberg, I understand you would like to make a few remarks.

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Senator LAUTENBERG. Thank you, I will submit my statement for the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

Mr. Chairman, each week brings another reminder that our country is slowly—but steadily—recovering from the worst economic downturn since the Great Depression.

Letting Wall Street regulate itself helped trigger this crisis, sending millions of Americans to the unemployment line and causing their retirement accounts to shrink.

Under President Obama's leadership, we're rebuilding the economy from the ground up—laying a foundation that will make our country stronger and better prepared for the future.

A cornerstone of this effort is the Wall Street reform law, which includes critical safeguards to protect the economy from another meltdown.

This new law reins in the recklessness of the big banks and creates a watchdog to look out for consumers and make sure financial institutions follow the rules.

In addition, these reforms ensure that ordinary investors get the information they need to make sound decisions. The law also brings the derivatives market out of the shadows and into the sunlight.

Unfortunately, big Wall Street banks have again persuaded some in the Congress that the financial industry can regulate itself.

And now they are trying to stop Wall Street reform by gutting funding for the new law.

Make no mistake: without these new reforms and the funding to carry them out, Wall Street will return to its reckless ways, which will threaten our economic recovery and undermine our ability to create jobs.

As a former CEO, I understand the need for a strong financial sector.

But our top priority must be making sure our economy is never again threatened by the risky bets of Wall Street gamblers.

So I look forward to hearing from Chairman Gensler about how we can make sure the reform law works the way it was designed and protects the American economy and the American people.

Senator DURBIN. Thank you, Senator Lautenberg. Chairman Gensler, please proceed with your testimony.

SUMMARY STATEMENT OF GARY GENSLER

Mr. GENSLER. Thank you, Chairman Durbin, Ranking Member Moran, and Senator Lautenberg.

I'm honored to be at this hearing today that my distinguished Senator—Barbara A. Mikulski—is the chairman of. She's my Senator from Maryland and she's a terrific Senator.

I thank you for letting me chat about CFTC's funding for 2013. CFTC is a good investment of taxpayer dollars because it supports the farmers, ranchers, producers, and commercial companies in each of your States that rely on the futures and swaps markets to lock in a price and lower their risk.

Senator Lautenberg asked as we were just about to convene, what is a derivative? It's basically that. It allows a commercial company to lock in a price so they can focus on something else. It used to be the locking in of the price of corn and wheat many, many years ago, but now it's much more complex, and it's locking in the interest rate.

And as these commercial end-users in the real economy, the non-financial side, provide 94 percent of the private sector jobs, it's all that more important that these markets work for them.

The futures and swaps markets are where commercial end-users meet financial firms and speculators. But the producers and merchants that rely on these products generally make up a small slice of the market.

In the oil markets, for instance, they only make up 15 to 20 percent of the market. In the corn and wheat markets, it's closer to 30 percent of the market. But the other part of the market, the 70 to 85 percent of the market, are financial actors and speculators in the market.

Same is true in the swaps market, except even more exaggerated. In the swaps market, worldwide statistics hold that about 10 percent of the market is with what we call end-users and the other 90 percent is financial actors and the like.

CFTC's role is to ensure that these markets are transparent and competitive and work for all market participants, but most importantly, it's about making sure it works for that 10, 15, or 30 percent which are the producers and merchants and the folks that are investing in our economy.

These markets are important to another group of your constituents, the Americans who rely on pension funds and mutual funds, and community banks, and insurance companies. Why is this? Because of all of those use swaps and futures to hedge a risk or en-

hance an investment return in that mutual fund or pension fund, and the like.

So it's crucial that CFTC is well-funded to ensure that Wall Street doesn't have an information advantage over the farmers, ranchers, and producers and other companies in your communities.

I think it's also crucial that we're well-funded to lower the risk that Wall Street's problems will travel to your States and become your constituents' problems as we unfortunately clearly saw in 2008.

I also think it's important that CFTC is well-funded though we're not a price-setting agency, and I find I'm saying that more often recently. Rising energy prices, once again, remind us of why it's crucial that there's an effective cop on the beat to protect against fraud, manipulation, and other abuses.

Let me just put our funding request in context. We currently oversee a \$37 trillion futures market. And, yet, our staff is just about 10 percent larger than we were in the 1990s. The Congress has asked us to now also oversee a \$300 trillion swaps marketplace, or eight times the size of our futures market.

And, if I can use an analogy of the National Football League (NFL), imagine if the NFL were expanded eight times. And there were not the number of games that we have today, but 100 games every weekend.

I could have used basketball, Senator Moran, but there are only three referees in basketball, so bear with me with a football analogy. If the seven referees all of a sudden didn't have to just referee one football game, but they had to cover eight football games, you can imagine what would happen on the field of play.

The referees on the field do more than just call penalties and watch out for violations, they really protect the players, promote fair competition, and ultimately ensure the integrity of the game.

That's very similar to what CFTC is about, in a sense. We're not requesting eight times the referees, but just to put some startling numbers in front of you. The clearinghouses, trading platforms, and data platforms that we currently oversee, total about 32. One of them, the Kansas City Board of Trade, we've talked about in the past.

That total, we estimate, will grow to about 100, or three-fold. We currently oversee about 130 to 140 futures commission merchants. And something called retail foreign exchange dealers, we envision that they'll be somewhat in that vicinity, swap dealers, that will come in.

So, we're doubling the number of intermediaries. We're probably tripling the number of trading platforms, and the like.

So our request of \$308 million, a 50 percent increase, represents about 56 percent for technology increase, and 43 percent for staff. So we're trying to make the balancing right. And, I know this \$103 million increase might seem bold, but I believe it's really not so bold in comparison to the 8 million jobs that were lost as a result of the financial crisis.

And, if I could use the football analogy one more time, if the football games were expanded eight-fold, leaving just one referee per game, and in some cases, no referees, and if it was basketball, then five of the games wouldn't have anybody, imagine the mayhem on

the field, the resulting injuries to the players, and the loss of confidence in the game itself.

PREPARED STATEMENT

So, in 2012, CFTC will finish implementing the Dodd-Frank Act rules. The fiscal year 2013 request not about implementing the rules or not, it's about trying to avert another financial crisis. It's about helping producers, merchants, farmers, and commercial companies in your States to use these futures and swaps so they can grow their businesses, hire people and invest in our country.

I thank you.

[The statement follows:]

PREPARED STATEMENT OF GARY GENSLER

Good afternoon Chairman Durbin, Ranking Member Moran, and members of the subcommittee. Thank you for inviting me to today's hearing on the Commodity Futures Trading Commission's (CFTC) fiscal year 2013 budget request.

It is critical that the derivatives markets—both futures and swaps—work for hedgers, farmers, ranchers, producers, and commercial companies in the real economy. Futures and swaps markets allow them to lock in a price and focus on what they do best—servicing customers, producing products, and investing in our country's future. As it's the hedgers in the real economy—the nonfinancial side—that provide 94 percent of private sector jobs, it's all the more important that these markets work for America's job providers.

The derivatives markets that CFTC oversees are where hedgers across the country meet financial firms, and others—generally called speculators. Over time, the makeup of these markets has shifted dramatically. Financial firms and speculators now make up the vast majority of these markets. For instance, producers, merchants, processors, and other end-users make up approximately 15 percent of the crude oil futures market. Swap dealers, managed money accounts, and other financial actors make up the remaining 85 percent. In Chicago Board of Trade wheat contracts, end-users make up 9 percent of the long and 29 percent of the short positions, meaning that more than 70 percent of this market consists of financial interests.

CFTC is not a price-setting agency. Our critical mission is to ensure that derivatives markets are transparent and free of fraud, manipulation, and other abuses. Our mission is particularly important considering hedgers—America's job creators—use these markets to lock in a price and make their investments. Given the dominance of financial actors and speculators in these markets, it's that much more crucial that CFTC is well funded so that we can ensure these markets work for hedgers. The need for adequate funding is highlighted by rising gas prices at the pump.

In 2008, the financial system and the financial regulatory system failed America. The unregulated swaps market helped concentrate risk in the financial system that spilled over to the real economy, leading to 8 million jobs lost, millions of families losing their homes, and thousands of small businesses closing their doors. In 2010, the Congress and the President came together to pass the historic Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Beyond swaps market reform, the Congress benefited commercial hedgers by closing gaps in the CFTC's oversight, including the so-called "Enron Loophole" and "London Loophole", as well as strengthening the agency's anti-manipulation authorities. But effectively overseeing these markets depends on adequate funding for the agency's expanded mission.

At its fiscal year 2012 staffing level of 710 full-time equivalents (FTEs), the agency is but 10 percent larger than our peak in the 1990s. But since then the futures market has grown to approximately \$37 trillion notional, and the Congress added oversight of the \$300 trillion swaps market, which is far more complex than the futures market. This growth is highlighted on pages 148–149 of CFTC's budget submission.

It is as if all of a sudden the National Football League (NFL) expanded eight times to play more than 100 games in a weekend. I think we'd all agree that the same number of referees could not monitor all those games. And referees on the field do more than call penalties and watch for violations of the rules. They also protect the players, promote fair competition, and ultimately ensure the integrity of the game.

Thus, just as in my NFL analogy, CFTC needs more referees. CFTC is requesting significantly more resources to oversee a much expanded field of play. The request is for an appropriation of \$308 million and 1,015 FTEs. CFTC's budget request strikes a balance between important investments in technology and human capital, both of which are essential to carrying out the agency's mandate. This approximately 50 percent increase in funding includes a 56 percent increase in IT services, but only a 43 percent increase in staff.

Though these percentages might seem striking, let me use the football analogy—we're being asked to oversee the swaps markets, which is eight times the size of the futures markets. And we need more referees to protect the players, promote fair competition, and ultimately ensure the integrity of the markets.

CFTC is dedicated to using taxpayer dollars efficiently—nearly one-fourth of our overall budget request—\$70 million—is for outside information technology (IT) services. When the CFTC's dedicated IT staff is included, we're requesting \$96.2 million for IT, or nearly one-third of the overall budget.

But it still takes human beings to watch for market manipulation and abuses that affect hedgers, farmers, ranchers, producers and commercial companies, as well as the public buying gas at the pump.

In the context of a constrained budget environment and the agency's dramatically expanded mission, CFTC took three significant steps in the past year to prepare for implementation of financial reform. First, we developed a new strategic plan for fiscal years 2011–2015. This plan raises the bar on the agency's performance measures to more accurately evaluate our progress. But the agency's performance is affected by the challenges of limited resources. CFTC's first performance report said the agency was only able to meet 57 percent of its performance targets. For example, CFTC examined fewer derivatives clearing organizations (DCOs) than called for in the strategic plan. In addition, fewer staff members were available to review new contracts for susceptibility to market manipulation, resulting in a backlog in such reviews.

Second, CFTC put in place an organizational restructuring that went into effect in October 2011, which aligned the agency with our expanded mission. It created the Division of Swap Dealer and Intermediary Oversight and the Office of Data and Technology, as well as reorganized a number of other divisions. And third, the agency began presenting its budget request by the agency's mission activities, a change from our presentation approach in years past, which was by agency divisions. It offers the Congress and the public a much clearer picture of what CFTC does for the American people. In the chart attached to this testimony, you can see each of our missions and the associated funding request.

In my remaining testimony, I will review the five areas that make up more than 90 percent of our requested budgeted staff increase:

- registrations;
- examinations;
- surveillance and data;
- enforcement; and
- economics and legal analysis.

REGISTRATION AND PRODUCT REVIEWS

A significant task before us in fiscal year 2013 will be the registration of an unprecedented number of new market participants, as well as reviews of new products for both the clearing mandate and the trading mandate.

We want to consider registration applications in a thoughtful and timely manner, be efficient in reviewing submissions, and be responsive to market participant inquiries, but this will require sufficient funding. We are seeking \$36.8 million and 142 FTEs for these two mission areas, an increase of \$18.2 million and 70 FTEs.

The more than 200 entities that may seek CFTC registration within the next year is a dramatic increase over any registration effort the agency has overseen in the past. CFTC needs staff to facilitate the registration of the following market participants:

Clearinghouses.—Entities that lower risk to the public by guaranteeing the obligations of both parties in a transaction. We are working with four new entities seeking to register as DCOs and have inquiries from others. These entities will join the 16 we currently oversee.

Designated Contract Markets (DCMs).—U.S. trading platforms that list futures and options and likely will start listing swaps. CFTC currently oversees 16 DCMs, and by 2013, staff expects another 5 to seek registration.

Foreign Board of Trade (FBOTs).—Regulated trading platforms in other countries that are generally equivalent to DCMs. Since the FBOT rule became effective in February, two have filed formal applications to be registered with CFTC.

Another 20 FBOTs currently operate under staff no-action letters. By 2013, staff expects a total of 28 FBOTs to seek registration with CFTC.

Swap Data Repositories (SDRs).—Recordkeeping facilities created by the Dodd-Frank Act to bring transparency to the swaps market. Four have already filed with CFTC, and by 2013, an additional two SDRs are expected to seek registration.

Swap Dealers.—Under the Dodd-Frank Act, CFTC is working to comprehensively regulate swap dealers to lower their risk to the economy. A rule finalized in January requires them to register with the National Futures Association (NFA). For planning purposes, CFTC staff currently estimates somewhere between 100 and 150 swap dealers may request registration with the NFA, and we'll be overseeing their registration and related questions.

Swap Execution Facilities (SEFs).—The new trading platform for swaps.

CFTC staff estimates that 20–30 entities may request to become SEFs.

While we will have a system for provisional registration in place, market participants will want the certainty of final registration. CFTC also is taking on a new resource-intensive responsibility of reviewing which swaps will be subject to the clearing mandate. Full funding for the agency means that we will be best prepared to review the dramatic increase in requested registrations and to review swaps for the clearing mandate. A partial increase in funding means market participants will see a backlog in registrations, responses to their inquiries, and product review because we won't have personnel sufficient to review their submissions in a timely and complete manner. Flat funding will mean market participants will wait even longer. There will be significant backlogs for participants seeking to register with CFTC, as well as for review of swaps for mandatory clearing.

Examinations

Another critical mission for fiscal year 2013 will be more regular and more in-depth examinations of the major market participants CFTC oversees. Examinations are CFTC's tool to check for compliance with laws that protect the public. The agency is seeking \$35 million and 161 FTEs for examinations, an increase of \$19 million and 72 FTEs. CFTC is asking for nearly double our resources for this mission because the number of entities we examine is expected to more than double.

This is an area where the agency fell short of our goals in the 2011 performance report.

CFTC directly reviews clearinghouses and trading platforms and will review SDRs. But while the agency reviews them directly, we don't have the resources to have full-time staff on site, unlike other regulatory agencies that do have on-the-ground staff at the significant firms they oversee. CFTC also doesn't do annual reviews. Clearinghouses, for instance, currently are examined on a 3-year cycle. For intermediaries such as futures commission merchants (FCMs) and swap dealers, the CFTC's funding situation requires us to rely on what are known as self-regulatory organizations (SROs) to be the primary examiners. Given our lack of resources, we're only able to double check the SRO's work on a limited number of FCMs each year, and the agency can spend little time onsite at the firms.

On top of the current lack of staff for examinations, our responsibilities in 2013 will expand to include reviews of many new market participants. For instance, there are currently 123 FCMs, and staff estimates a similar number of swap dealers will ultimately register. More frequent and in-depth examinations are necessary to assure the public that firms have adequate capital, as well as systems and procedures in place to protect customer money. The number of clearinghouses, trading platforms, and data platforms is expected to triple. Reviews of these entities are critical to ensuring the financial soundness of clearinghouses, and ensuring transparency and competition in the trading markets.

Fully funding the increase for examinations means CFTC can move toward annual reviews of all significant clearinghouses and trading platforms and adequate reviews of other market participants. A partial increase for examinations means cutting back our monitoring plans for new market participants and more in-depth risk reviews. Flat funding means we will continue lacking the ability to assure the public that CFTC's registrants are financially sound and in compliance with regulatory protections.

Surveillance and Data

Effective market surveillance is dependent on CFTC's ability to acquire and analyze extremely large volumes of data to identify trends and events that warrant further investigation.

CFTC is seeking \$65.6 million and 205 FTEs for surveillance, data acquisition, and analytics, an increase of \$22.2 million and 65 FTEs. Of the \$65.6 million request, 55 percent would be directed toward information technology.

The Dodd-Frank swaps market transparency rules mean a major increase in the amount of incoming data for CFTC to aggregate and analyze. The agency is taking on the challenge of establishing connections with SDRs and aggregating the newly available swaps data with futures market data. This will require high-performance hardware and software and the development of analytical alerts. But it also requires the corresponding personnel to manage this technology effectively for surveillance and enforcement.

In fiscal year 2013, CFTC also anticipates receiving ownership and control information for trading accounts. This means CFTC will have data to better detect intraday position limit violations and analyze high-frequency trading. CFTC also will be monitoring for compliance with rules on aggregate position limits for both futures and swaps in energy and other physical commodities.

A full increase for surveillance means CFTC will have the ability to analyze futures and swaps data to protect market participants and the public. A partial increase would limit the agency's investments in analysis-based surveillance tools. And flat funding will limit our capacity to effectively utilize and aggregate the new data we are beginning to receive.

Enforcement

CFTC's enforcement arm protects market participants and other members of the public from fraud, manipulation, and other abusive practices in the futures and swaps markets.

Our efforts range from pursuing Ponzi schemers who defraud individuals across the country out of life savings; to abuses that threaten customer funds; to false reporting of prices; to schemes to manipulate prices, including of goods, such as oil, gas and agricultural products. CFTC has opened more than 900 investigations in the past 2 fiscal years, with a record number of new investigations in fiscal year 2011. CFTC is seeking \$60.4 million and 225 FTEs for enforcement, an increase of \$16.1 million and 50 FTEs.

In 2002, we had 154 people devoted to enforcement, and that number has grown just slightly to our current staff of 170. This staff has been called upon to enforce laws and rules that are new to our arsenal. The Dodd-Frank Act mandate closed a significant gap in the agency's enforcement authorities by extending the enforcement reach to swaps and prohibiting the reckless use of manipulative or deceptive schemes. In addition, CFTC will be overseeing a host of new market participants.

A full increase for enforcement means more investigations and cases that the agency can pursue to protect the public. A less than full increase means that CFTC will be faced with difficult choices. We could maintain the current volume and types of cases, but we would have to shift resources from futures cases to swaps cases or not cover all of the swaps market. Flat funding means not only that CFTC's enforcement volume likely would shrink, but parts of the markets would be left with little enforcement oversight.

Economics and Legal Analysis

For fiscal year 2013, CFTC is seeking \$27.8 million and 88 FTEs to invest in robust economic analysis teams and Commission-wide legal analysis, an increase of \$6.8 million and 24 FTEs. CFTC's economists support all of the Commission's divisions, including surveillance and complex enforcement cases. They are currently working with Dodd-Frank Act rule teams to carefully consider the costs and benefits of each rule. In 2013, CFTC's economists will be integral in developing tools to analyze automated surveillance data and determining whether new products are eligible for clearing. The economists also will be assessing the effect of position limits on futures and swaps markets. Flat funding or a partial increase means a strained ability to analyze the market and detect problems that could be negative for the economy.

CFTC's legal analysis requirements will increase in 2013 as a result of new market participant registrations, as well as new product reviews and the clearing mandate.

A less than whole funding increase means a more limited ability to give market participants timely responses to their questions and timely processing of their applications. Flat funding means CFTC's legal analysis team will be spread extremely

thin, aggravating the delays in responding to market participants and processing applications and straining the support of enforcement efforts.

CONCLUSION

Market participants depend on the credibility and transparency of well-regulated U.S. futures and swaps markets. Without sufficient funding for CFTC, their businesses—and the Nation—cannot be assured that the agency can adequately oversee these markets.

Funding this requested budget increase for CFTC is about ensuring hedgers in the real economy, the farmers, ranchers, producers, commercial companies, and other end-users that use derivatives markets, can lock in a price and lower their risk.

We've been asked to oversee the swaps market, which is eight times the size of the futures market. Just as if the current number of NFL referees were called upon to monitor more than 100 games in a weekend, we need the resources to protect the players, promote fair competition and ultimately ensure the integrity of the markets for the American people.

SUMMARY OF REQUESTED INCREASES OF \$102.7 MILLION BY ACTIVITY
[Dollars in thousands]

	Fiscal year 2012 base		Fiscal year 2013 request		Fiscal year 2013 increase		Percentage of increase
	Amount	Full-time equivalents	Amount	Full-time equivalents	Amount	Full-time equivalents	
Registration and registration compliance	\$11,073	34	\$19,188	63	\$8,115	29	8
Reviews of products and rules of operation	7,540	38	17,585	79	10,045	41	10
Data acquisition, analytics, and surveillance	43,399	140	65,614	205	22,215	65	22
Examinations	15,937	89	34,907	161	18,970	72	18
Enforcement	44,293	175	60,394	225	16,101	50	16
Commission-wide economic and legal analysis	20,947	64	27,787	88	6,840	24	7
Commission-wide international policy coordination	3,553	10	5,023	16	1,470	6	1
Commission-wide data infrastructure	31,214	41	48,449	52	17,235	11	17
Commission-wide management and administrative support	26,204	114	27,674	120	1,470	6	1
Inspector General	1,134	5	1,379	6	245	1	
Total, all CFTC activities	205,294	710	308,000	1,015	102,706	305	100

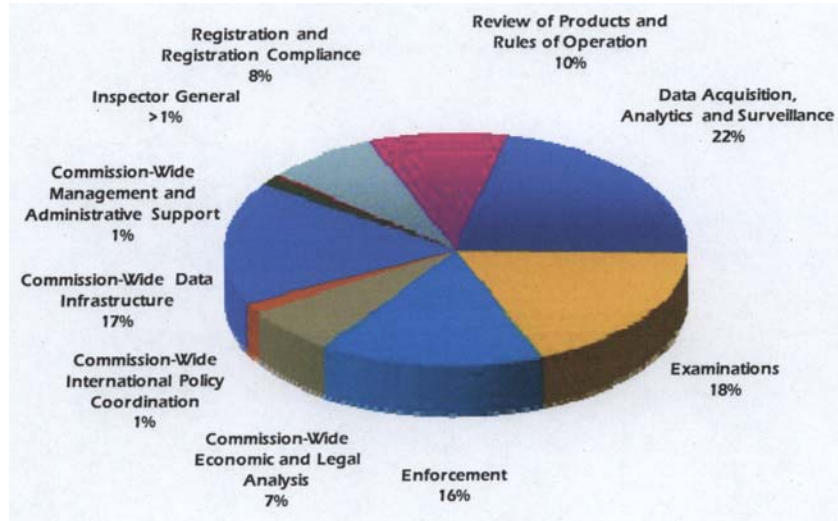


FIGURE 1. \$102.7 million budget increase by activity.

Senator DURBIN. Thank you, Chairman Gensler.

Because they waited patiently for me, I'm going to yield the opening round of questions to my colleague, Senator Lautenberg. And, then, turn to Senator Moran.

BUSINESS CONDUCT RULES

Senator LAUTENBERG. Thanks, Mr. Chairman. Thank you, Mr. Gensler.

The growth in your responsibility commensurate with the growth in the industry, of course, is quite a change over the years. And a lack of regulation in derivatives helped cause the financial crisis that we underwent.

CFTC requesting a significant budget increase, which some oppose. Is it fair to say that if the Congress fails to provide this funding increase, derivatives will remain largely unregulated?

Mr. GENSLER. I think, Senator, we will be successful in implementing the rules that you all have asked us to do, but I do think, just as in my basketball or football analogy if I stretch it, there wouldn't be folks to oversee the markets.

So it would be regulation by rule—we wouldn't be able to really do what's necessary to answer people's questions, to have effective cops on the beat, and, very importantly, I think, protect the American public.

Senator LAUTENBERG. An op-ed piece written recently by a departing Goldman Sachs employee got a lot of attention, and it suggested that the firm may not always deal with its clients in good faith.

The Wall Street Reform Law introduced new business conduct standards for swap dealers like Goldman Sachs. What's CFTC doing to enforce these standards and ensure fair dealing?

Mr. GENSLER. Well, I'm pleased to say that we were able to finalize the rules in sales practices and business conduct just this past

January. I think that as you noted, the financial industry is often a counterparty, is often on the other side of the table, from the commercial companies in your States.

And so that's why it's so important, I think, not only to finalize the rule, but then also to have the funding so that we can respond to inquiries, whistleblowers, and actually ensure that those sales practices are met.

POSITION LIMITS

Senator LAUTENBERG. There is obviously a real good, big vote of thanks, in terms of the President's request for a budget for your department.

And when we see what is involved, position limits, help ensure that unscrupulous traders can't manipulate, or will not be able to manipulate, oil and gas prices.

CFTC completed its work on position limits for energy derivatives last year, but they're not yet in effect, correct?

Mr. GENSLER. That's correct.

Senator LAUTENBERG. Gas prices continue to rise. Why are these limits still not in place?

Mr. GENSLER. We were able to finalize our rule writing on position limits last October, but there were two additional pieces that needed to be done.

One was that although the Congress laid out a pretty detailed definition of "swap", the Congress mandated that we work with the Securities and Exchange Commission (SEC) to "further define the word 'swap'."

We wanted to, I think, and the Congress wanted to, make sure that we didn't inadvertently bring people in who were using the cash markets—transactions called "forwards". I've had a lot of conversations with Senator Moran about this.

I think we'll finalize that rule this spring. We need to finalize that, and then spot-month limits will go into effect. Second, we also needed some additional data. The way we finalized the rule in October was to provide that we needed to get at least one-more year's data to put in place the second part of the limits.

USER FEES

Senator LAUTENBERG. There's strong funding for the CFTC oversight is essential to preventing another financial meltdown. But the industry should have to pay its fair share.

CFTC is the only financial regulator that does not offset a portion of its costs through industry user fees. Would collecting user fees instead of depending exclusively on taxpayer funding be consistent with CFTC's ability to accomplish its mission?

Mr. GENSLER. Senator, I look forward to working with the Congress in any way you think is most appropriate to help ensure the public has a well-funded CFTC.

I know that President Obama has suggested, I think other Presidents in the past of both parties have suggested, possibly having fees. My view is whatever the Congress wants to do I would work with the authorizers and the appropriators to ensure full funding of the CFTC.

Senator LAUTENBERG. Thank you, Mr. Gensler. Senator Moran, your turn. And it's not just because you're the remaining member. It's that we recognize the quality of information.

CORE PRINCIPLES

Senator MORAN. You are so kind, Senator. Thank you.

Mr. Chairman, let's talk about a couple of issues that we seem to talk about regularly. I want to talk about position limits and core principles.

In regard to core principles, what I often hear from the futures industry is that they are overwhelmed by the volume, frequency, and speed at which CFTC is issuing new regulations. And, regardless, of your efforts to entertain meetings and round tables, there's a sense out there that while you're willing to sit down, you're not quite as willing to listen.

Most observers, I think, would reach the conclusion that during the difficulties our country experienced in 2008, regulated exchanges functioned well, in large part, due to the core-principle regime.

Instead of seizing on the strengths of the core-principle regime, CFTC under your leadership has systematically converted the core-principle regime to one of a prescriptive rule-based regime.

Why, Mr. Chairman, after the core principles served so well during the financial crisis are you still pursuing these rigid regulations that effectively dismantle core principles?

Mr. GENSLER. I, Senator, actually think that what we're doing is building upon what has worked well, as I think we both see in the futures world, and extending it to this swaps world.

Core principles are there for designated contract markets like the Kansas City Board of Trade. It's also there for the clearinghouses. In the clearinghouse context, we thought it's really critical that they do have robust risk management.

We finalized those rules last October, and we thought guidance, frankly, would not be enough because of the significant amount of risk being moved into, particularly, in the swaps area.

We have not yet finalized the ones on the exchanges, and we're still taking, even though officially our comment period closed a long time ago, we're still taking very much our time on this, taking more input on this.

And I would hope we could actually have additional meetings. If there are things in that area that you particularly want us to focus on, I'd like to know about that.

Because what we're trying to do there is really just make sure that it's extended to swaps, and that we're embodying in the final rules for designated contract markets, the best practices that the designated contract markets currently use in the futures market.

IMPLEMENTATION

Senator MORAN. We may have to have those conversations. And you've been kind to make that offer in the past, and I welcome that opportunity again.

It strikes me that we may be about to engage in the same back and forth that we had a year ago. But the implementation for dis-

cretionary rulemaking has grown since we talked a year ago. What I would call a haphazard nature of rulemaking.

Since your last appearance before the subcommittee, one of your rulemakings has been challenged in court. Published remarks by the judge in that court case indicated that it's highly likely that the rule implementing position limits will be struck down.

What will your response be should that rule be rejected by the courts? Are you and CFTC staff planning for that possibility?

Mr. GENSLER. In terms of implementation phasing, I think that we very much took your advice and guidance last year. Around spring, we actually put out for public response and comment 13 concepts around implementation phasing.

Senator MORAN. So I'm now responsible for the mosaic.

Mr. GENSLER. No. I think your advice was about seeking public input on implementation phasing.

Senator MORAN. Okay.

Mr. GENSLER. The word "mosaic" was something I've used. And I will try not to use it again.

We got a 60-day public comment period and 2 full days of round tables: they were very beneficial. We've not finalized our rules in the 1 year since the passage of the Dodd-Frank Act. Here we're almost 2 years out, and we've not finalized.

We're not trying to do this against a clock—I know when I first said that, people didn't believe me—but here we are almost 2 years, and we're maybe halfway through the final rules. We've got a lot still to do, and we're still not trying to do this against a clock. We're trying to do it in a balanced way.

And in terms of phasing, we've even put out some specific rules for comment in the fall, in September, about the phasing of the clearing mandate and the trading mandate and the like. And that has been very beneficial to get that public input. We then phase in each of our individual rules. Sometimes we give a year to get something in place, 6 months and the like.

POSITION LIMITS

On position limits more specifically, Senator, the first thing I would do is turn to our attorneys and probably personally read whatever opinion comes out of the judge to see what they've said.

It's part of our democratic process that anything that we do, somebody could move into a court. I believe that what we did in October, in finalizing the position limits rules, was consistent with the congressional mandate, the strong mandate that we move forward and implement position limits, not only for futures, but also for swaps.

But, of course, if a judge has a different view on that, then we'll take a very close look at what he says.

Senator MORAN. When do you expect that decision?

Mr. GENSLER. Well, right now, I think we're just awaiting, the litigants had a preliminary injunctive motion, and we're waiting to see what the judge says on that.

I'm told, I'm not a lawyer, but I'm told that's generally, a relatively short process. So near term what I'm told that we'd hear from is just on that preliminary injunctive motion.

Senator MORAN. Have you had discussions about what if the rule is struck down? What does CFTC do next? I mean, you indicated you are going to read the decision by the court, but are you planning at this point if there is an adverse decision, what CFTC should do?

Mr. GENSLER. I don't have a plan yet because it would depend on wholly on what does the judge says.

We think, and I will say this personally too, we've followed the clear congressional direction on these limits. And what the limits are really it's to ensure that there's not concentration. We're not a price-setting agency. Some folks have maybe suggested otherwise.

We're really an agency to ensure that the markets are transparent, open and competitive, and that these exchanges work well, that the clearinghouses are safe.

Through the position limits, it's about ensuring that no one speculator has a sort of large footprint in that marketplace. They've been in place in the agricultural markets since the 1940s. Actually, working with the exchanges, they were in place in the energy markets in the 1980s and 1990s.

And I think the Congress really suggested that we sort of bring them back, but also extend them to the swaps marketplace. The reason we said we needed a delay is to get more information. So even in a swaps marketplace, we need that 1 year of data to use a percentage of the market formula that had existed when limits applied only to futures.

I think we first used this percentage of the market formula about 1980 or so. But, of course, if a judge says that he thinks we should do something different, we'd have to look obviously at what they said, and whether to appeal that and so forth.

Senator MORAN. Thank you, Mr. Chairman.

MARKET IMPACT ON PRICES

Senator DURBIN. Thank you very much, Senator Moran.

Chairman Gensler, in your opening remarks you said, and I quote, "CFTC is not a price-setting agency, but rising fuel prices make it clear why we need to have cops on the beat."

I'm trying to reconcile, if I wrote that down properly. I'm trying to reconcile that statement. You seem to suggest at the outset that what you do has no impact on price, but then go on to say, but because prices are going up, we have to do a better job.

Mr. GENSLER. Well, I think, Mr. Chairman, I thank you for that question. Because what we do as an agency, whether prices are low or high, is ensure the American public that those prices are arrived at where buyers and sellers meet in a transparent marketplace, free of fraud and manipulation.

Position limits assure that no one has sort of a large footprint, no speculator, has too large a concentration. I think, in times when the public is asking this question, it reminds us why we have to, I believe, have a well-funded agency to ensure that these markets are free of fraud and manipulation and they're as transparent as possible.

And that buyers and sellers come into that marketplace on a fair field of play.

Senator DURBIN. So, let me try to get down to some basics here so I can understand from a layman's point of view how I would explain this to people.

Let's assume for a moment we're talking about a futures market relative to plywood, which I think at one point was on the Chicago Board of Trade. And let's assume there are ten people interested who understand that they are talking about the future price of plywood and may have to take delivery of what they are buying.

I would assume that market would be less active, all things being equal, than a market with 100 people interested in the same issue. Is that a fair conclusion?

Mr. GENSLER. I think so.

Senator DURBIN. Now, let's take it to the next step. Let's assume it's not 100 people interested in the future price of plywood, but a thousand. And of those 1,000, 900 have no interest in plywood. They'd just as soon be dealing with apples at the Pip's next door.

They don't want to ever take delivery. They're never really interested in reaching that point in the transaction. Does that change the trade, the volatility of trading, perhaps, the price of plywood?

Mr. GENSLER. There's been a lot of studies and surveys on the role of speculation in these markets. I'm taking that to be the 900 that aren't taking delivery, and we actually reviewed them in this position limit rule last October. There were about 50 studies that were commenters sent in.

I suspect you'd probably not be surprised, about one-half of them said that the role of speculators had an influence on some of the things you said, price, and volatility. About half said, no.

I mean, and so you have the St. Louis Federal Reserve, and you have some very esteemed economists on one side saying, yes. And you have some other surveys and studies on the other side, suggesting, no.

So, we've summarized all that, and all five of the commissioners, you know, have the benefit of a very good chief economist in the office that has helped us with this.

Senator DURBIN. So, if there is a split opinion as to whether or not the number of trades, the number of traders, the interest in taking possession has any impact on price, let me ask you what the empirical evidence is.

If you're dealing with a commodity that really, and there are some, doesn't engage people as much as some other commodity, what is the nature of that market compared to the more active market in the next, no longer Pip's probably, but in the next trading theater?

Mr. GENSLER. Well, I think that there are two features. If the less-active market doesn't have a lot of fundamental research around and a lot of transparency around it, that market actually sometimes can be more easily manipulated, if there aren't people coming in and out.

But, the second feature, I think to the core of your question, is if the market as many of our markets are now 80 to 85 percent financial actors and speculators, and, you know, a smaller percent are the producers and merchants, I think that's part of the reason why we want a well-funded CFTC because the nature of the market is so heavily toward the financial actors and so heavily toward

the speculators, that it's that much more critical that we're watching over these markets to prevent manipulation.

And, second, that we do use position limits that no one speculator has such a large position that they start to be sort of the trend setter. They start and others sort of follow that lead in a pack.

Senator DURBIN. I have some more questions, but I'm going to yield to my colleague.

LEGAL SEGREGATION WITH OPERATIONAL COMINGLING (LSOC)

Senator MORAN. Mr. Chairman, thank you.

Mr. Chairman, it's my understanding that CFTC recently held a roundtable meeting to discuss the possibility of subjecting futures to a LSOC model. This sort of regulation, I think, at least appears to me, is discretionary as the Dodd-Frank Act only requires that you apply the LSOC model to cleared swaps.

Given that the LSOC for swaps will not come on-line until November of this year, will you comment—I'm sorry—will you commit to this subcommittee that you will hold off on pursuing the LSOC model for the futures market until the cost-benefit analysis for the LSOC for swaps has been fully evaluated over the course of the next few years?

Mr. GENSLER. I want to say we're in complete agreement. It is discretionary. It is something that came up actually in January as we were completing the new segregation for cleared swaps that a number of my fellow commissioners said, this is different than what we're doing for the futures world and have for some time.

And so I committed to my fellow commissioners, let's have a round table, and let the public tell us. And I think it was very beneficial.

It was also at this round table that people commented on greater enhancements to customer protection and different models. Staff's evaluating the comments and to the extent that staff puts forward a proposal whether it's this legal segregation for futures or other recommendations, all five of the Commissioners are weighing in.

We have a pretty active and busy agenda this spring and summer on the Dodd-Frank Act initiatives. So it might be disappointing for some that want LSOC for futures early.

I think it's just inevitable, if nothing else, for capacity reasons, that it will wait. And I think you're right, Senator, that because we're doing legal segregation for the swaps markets by November 8, we'll learn a lot from that as well.

Senator MORAN. So I think what you're telling me is we would not expect the LSOC for swaps to occur, if it does at all, until after the LSOC for futures?

Mr. GENSLER. I think that's just absolutely correct because we have a very significant agenda that the Congress has mandated for us.

We have enhancements to customer protection that I think are getting some very good input from the futures industry and from the exchanges. If there is a true consensus, on LSOC for futures, there is not that consensus at this stage.

Senator MORAN. Thank you for clarifying my misstatement, and I appreciate that sentiment, because one of the conversations that

you and I've had on an ongoing basis is my belief that you ought to focus on the things required by the Dodd-Frank Act that are mandatory as compared to the discretionary opportunities that the Dodd-Frank Act has given CFTC and prioritize.

And I think your answer to my question suggests that in this case, that's what you're doing.

Mr. GENSLER. Yes. I think, generally, that's the case. There are some things that are discretionary that we're taking up, I hope, soon to put out a proposed rule on getting more data about who owns accounts.

This is because of all this high-frequency trading, and so forth. I mean, so there are probably, I'm going to say, three or four things, I don't have the right count in my head, that we do anticipate in 2012 to do to enhance our oversight of the markets given high-frequency trading. That's actually maybe three.

And then there may be some things that come out of really thoughtful presentations from the futures industry and others on how to better enhance customer protection around segregated funds. And I think that's a critical part of our 2012 agenda.

AGRICULTURAL SWAPS

Senator MORAN. Mr. Chairman, let me raise a recent decision by CFTC to prevent clearing houses from self-certifying agricultural swaps for clearing.

As I understand it, rule 35 requires CFTC to treat agricultural swaps as they would all other swaps for purposes of self-certification.

Can you explain why you've chosen, it appears to circumvent rule 35, and treat agricultural swaps differently than other forms of swaps?

Mr. GENSLER. The Congress gave us authority in the Dodd-Frank Act to treat agricultural swaps differently. Then, we went through a lot of public comment to say we would treat them the same. That's where we ended up sometime last year after I think three public notices.

I don't know that we're treating them any differently, but one challenge for the whole swaps marketplace, not just agricultural swaps, is that we haven't completed our rules. It may well be that what you're referring to is that we haven't finalized some of the general clearing rules.

Senator MORAN. So, this process dealing with agricultural swaps and nonagricultural swaps, did it slow down the process of finalizing the rule?

Mr. GENSLER. We implemented 29 Dodd-Frank Act rules. We have about 20 to go, roughly. So, you know, maybe we'll finish this sometime this summer or fall, but again, it's not against a clock.

In the terms of agricultural swaps, they're to be treated identical to all the other swaps. There's a little bit of a legacy issue in that before the Dodd-Frank Act, agricultural swaps could not be cleared unless we did something called a—I think it's called a 4D order, but I apologize if I have the wrong letters.

And so, it's a little bit of this legacy issue of, I think, somebody has filed a petition in the last month or two, and there's a question, do they use this 4D order or do they use this new self-certification.

And I was briefed on it in the last day or two in anticipation of this hearing, but I might have just exhausted my knowledge on it.

Senator MORAN. Let me try one more time, not because you've exhausted your knowledge, but because I've been inarticulate in asking the question.

I think what I'm interested in knowing is the timeline of the ability to implement self-certification for agricultural swaps.

Mr. GENSLER. I know that it would most definitely come if we finalized a handful of new rules sometime this spring or summer. The other issue that I was briefed on in the last day was, is there some way to shorten the time?

And all I know is that our staff's looking at that to see if there's a way to do it.

Senator MORAN. Thank you for working your way through that question.

Mr. GENSLER. Okay.

SPECULATION AND PRICING

Senator DURBIN. Chairman Gensler, I'd like to address, as we started talking about at the outset, the connection between speculation and pricing.

And you said that the jury is split on that based on what you have read. I would say that for at least 20 of my colleagues, they have come down on the side that speculation is linked to higher prices.

And these colleagues sent you a letter, on March 5 of this year, calling on you to enact strong position limits to eliminate excessive oil speculation. I won't read the whole letter. You've received it.

For the record, I'll put it in the record here.

[The information follows:]

LETTER FROM THE CONGRESS OF THE UNITED STATES

MARCH 5, 2012.

Hon. GARY GENSLER, Chairman,
Commodity Futures Trading Commission, Washington, DC.

Hon. MARK WETJEN, Commissioner,
Commodity Futures Trading Commission, Washington, DC.

Hon. SCOTT WALLA, Commissioner,
Commodity Futures Trading Commission, Washington, DC.

Hon. BART CHILTON, Commissioner,
Commodity Futures Trading Commission, Washington, DC.

Hon. JILL SOMMERS, Commissioner,
Commodity Futures Trading Commission, Washington, DC.

DEAR CHAIRMAN GENSLER, AND COMMISSIONERS CHILTON, WETJEN, SOMMERS, AND O'MALIA: We are writing to urge you to immediately enact strong position limits to eliminate excessive oil speculation as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. As you know, the Dodd-Frank Act mandated that your agency promulgate and enforce such limits no later than January 17, 2011. We are disappointed that, more than a year later, the Commission has not fulfilled this important regulatory duty.

Congress determined that speculative position limits are an effective and critically important tool to address excessive speculation in America's oil and gasoline markets. It is one of your primary duties—indeed, perhaps your most important—to ensure that the prices Americans pay for gasoline and heating oil are fair, and that the markets in which prices are discovered operate free from fraud, abuse, and manipulation.

There has been a major debate over the last several years as to whether spikes in oil prices are caused entirely by the fundamentals of supply and demand or

whether excessive speculation in the oil futures market is playing a major role. It is clear to us that debate has ended. Exxon Mobil, Goldman Sachs, the Saudi Arabian government, the American Trucking Association, Delta Airlines, the Petroleum Marketers Association of America, and even a report last year from the St. Louis Federal Reserve have all indicated that excessive oil speculation significantly increases oil and gasoline prices. According to a February 27, 2012 article in Forbes, excessive oil speculation “translates out into a premium for gasoline at the pump of \$.56 a gallon” based on a recent report from Goldman Sachs.

The facts bear this out. According to the Energy Information Administration, the supply of oil and gasoline is higher today than it was 3 years ago, when the national average price for a gallon of gasoline was just \$1.90. And, while the national average price of gasoline is now over \$3.70 a gallon, the demand for oil in the U.S. is at its lowest level since April of 1997. Nor is the global supply of oil at issue. According to the International Energy Agency, in the last quarter of 2011 the world oil supply rose by 1.3 million barrels per day while demand only increased by 0.7 million barrels per day. Yet, during this same period, the price of Texas light sweet crude rose by over 12 percent. Meanwhile, oil speculators now control over 80 percent of the energy futures market, a figure that has more than doubled over the past decade.

As the cost for American people to fill their gas tanks continues to skyrocket, the CFTC continues to drag its feet on imposing strict speculation limits to eliminate, prevent, or diminish excessive oil speculation as required by the Dodd-Frank Act. Although the CFTC has adopted initial position limits, they are not strong enough and not yet in force owing to industry opposition, delays in swaps oversight and data collection. This is simply unacceptable and must change.

We urge you to take immediate action to impose strong and meaningful position limits, and to utilize all authorities available to you to make sure that the price of oil and gasoline reflects the fundamentals of supply and demand. This could entail promulgation of rules only with regard to the currently regulated exchange markets. Swaps rules should also be implemented immediately, but even so, waiting for swaps rules to trigger all position limits is simply not adequate to protect consumers. We urge you to develop alternative methods of moving forward and to do so as swiftly and expeditiously as possible.

We have a responsibility to ensure that the price of oil is no longer allowed to be driven up by the same Wall Street speculators who caused the devastating recession that working families are now experiencing. That means that the CFTC must do what the law mandates and end excessive oil speculation once and for all.

Thank you for your attention to this important matter. We look forward to receiving your response.

Sincerely,

Daniel K. Akaka; Mark Begich; Barbara Boxer; Richard Blumenthal; Benjamin L. Cardin; Sherrod Brown; Robert P. Casey, Jr.; Al Franken; John F. Kerry; Amy Klobuchar; Patrick J. Leahy; Carl Levin; Joe Manchin, III; Robert Menendez; Jeff Merkley; Barbara A. Mikulski; Bill Nelson; Mark L. Pryor; Jack Reed; John D. Rockefeller, IV; Bernard Sanders; Tom Udall; Jim Webb; Sheldon Whitehouse; Ron Wyden.

Gary L. Ackerman; Tammy Baldwin; Timothy H. Bishop; Suzanne Bonamici; Leonard L. Boswell; Bruce L. Braley; David N. Cicilline; Gerald E. “Gerry” Connolly; John Conyers, Jr.; Rosa L. DeLauro; Peter A. DeFazio; Lloyd Doggett; Joe Donnelly; Anna G. Eshoo; Bob Filner; Marcia L. Fudge;

Raúl M. Grijalva; Brian Higgins; Maurice D. Hinchey; Michael M. Honda; Mazie Hirono; Henry C. “Hank” Johnson, Jr.; Marcy Kaptur; Dale E. Kildee; Dennis J. Kucinich; Barabara Lee; Sander M. Levin; John Lewis; Zoe Lofgren; Jim McDermott.

Michael H. Michaud; Eleanor Holmes Norton; John W. Olver; Bill Pascrell, Jr.; Chellie Pingree; Mike Quigley; Nick J. Rahall, II; Lucille Roybal-Allard; Bobby L. Rush; Tim Ryan; Janice D. Schakowsky; Louise McIntosh Slaughter; Jackie Speier; Fortney Pete Stark; John F. Tierney; Paul Tonko; Peter Welch.

Senator DURBIN. Based on statements made from financial interest experts in the field and so forth, the belief is that speculation has driven up the price of a gallon of gasoline in America as much as 56 cents a gallon. That’s what I believe Goldman Sachs reported in one of their recent reports, February 27 of this year.

So there's a bill that's also been filed; are you familiar with it? A bill that was filed today in the Senate?

Mr. GENSLER. As I was coming to this, I was briefed on it, but just briefed on it, just in the last 2 hours.

Senator DURBIN. Well, I have not seen it myself, so I can't tell you exactly what's in the bill.

But I do believe that it calls on you to use your emergency powers to establish these position limits when it comes to trading in terms of oil futures. And I'd like to ask you a few questions about that.

EMERGENCY AUTHORITY

First, would you tell me what you believe to be your authority under those emergency powers, or CFTC's authority I should say, when it comes to making that kind of a decision?

Mr. GENSLER. I think with only roughly 15 percent of the positions in the oil market or natural gas futures markets being the producers, merchants, and end users, and 80 to 85 percent being financial actors and speculators, it's kind of unarguable that financial actors and speculators aren't affecting prices. They are.

Studies are split on whether at any given time it's higher or lower and things like that. That's what they split on. But I think it's hard to say that 80 to 85 percent of the market don't influence price. They do. And they're part of it.

In terms of the emergency authorities, as I understand it, we've used it a handful of times, maybe four times, in the 1970s and early 1980s. There was even a court case at the time that I have not yet read the case, but I need to read it, where somebody challenged our use of it at the time.

It is about disruption of the forces of supply and demand in a particular marketplace, and the statute specifically refers to things about governmental actions or foreign governmental actions. So it was used, for instance, at that time, during the grain embargo.

Senator DURBIN. I'd like to interrupt you for just a second. This isn't a test on the final, so I want to make sure that we share the language.

The law defines emergency as market manipulation, an act of the U.S. or foreign government affecting a commodity, or any major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for a commodity.

Proceed. I'm not correcting you. I just wanted to enter that into the record.

Mr. GENSLER. No, you're helping me. You're helping me. As I recall it that fits the four times we brought emergency actions.

There was a supply disruption in the one case because of the grain embargo related to the Soviet invasion of Afghanistan. There were one or two other instances where a crop—potatoes—literally were, had a problem, and so there was a situation in your example where you couldn't deliver the plywood.

Back to your plywood example. The plywood couldn't be delivered. In that case, it was potatoes, that couldn't be delivered.

It's those types of circumstances. I've asked our general counsel, because I know this is a very important matter to many members of this body, to brief us at CFTC level, to brief us all on the legisla-

tive history and the legal, what really is the contour of the limits of that emergency authority.

Senator DURBIN. So, is that authority given to you as chairman, or to CFTC?

Mr. GENSLER. To the Commission, Sir.

Senator DURBIN. And so any designation or use of the emergency authority would require CFTC action, right?

Mr. GENSLER. That's correct.

Senator DURBIN. A majority vote by CFTC?

Mr. GENSLER. That's correct.

Senator DURBIN. All right. And, to your knowledge, does the Congress have any authority to order you to exercise that emergency power?

Mr. GENSLER. Not as I understand the statute, but, of course, you could change our laws.

EMERGENCY ACTIONS

Senator DURBIN. I guess the obvious question that follows once we understand the process under the law and the history of the law is whether or not you and the commissioners believe that we are facing 1 of the 3 options that would lead to emergency action.

And let's just suggest that, I guess, market manipulation, could be discussed, or more likely, any major market disturbance which prevents the market from accurately reflecting the forces of supply and demand for a commodity.

So, are those things, those elements, 2 of the 3 in the law, have they been spelled out as it relates to gasoline prices or oil futures, to your satisfaction, at this point?

What I'm asking is, whether or not there's been an analysis done by your CFTC staff as to whether or not the current gasoline pricing and the oil price future trading would put you in a circumstance where you could logically consider one of these options for emergency authority, exercise of emergency authority?

Mr. GENSLER. I've actually asked for some advice as to what that provision means, how we've used it, what that court case in 1979 said about it, so that we can be best informed as to how narrow or broad that authority is.

As I understand it, we have used it in a very narrow sense when there was actual manipulation.

We've brought 30-plus manipulation cases in the history of our agency, and we've only gone and won in court once. I mean, our manipulation authority was very narrow, and now the Dodd-Frank Act has broadened it.

But those previous emergency actions were pre-targeted narrow provisions, but I've asked our general counsel's office working with others at the agency to best inform the five commissioners on that provision of the statute.

Senator DURBIN. I'm asking two questions, and I want to make sure that they're clear each.

The first, I think you've answered. That you have asked the appropriate legal authorities, people with background on the history of the agency, to talk about your authority under the law, and how it has been exercised in the past.

What I'm asking more specifically is whether or not you have asked whether or not the current situation with our rising gasoline prices and the speculation in the area of oil futures would apply to any of these three possible reasons to exercise your authority?

Mr. GENSLER. And I think I can best answer the first, but I'm limited in answering the second because I'm trying to understand the contours from our general counsel and our hardworking, dedicated folks at CFTC, how wide or narrow that is, the first before trying to answer the second.

But, I will say, historically, it's been used only in a very targeted way.

Senator DURBIN. So, have you at least started the factual inquiry about possible market disruption related to gasoline prices?

SURVEILLANCE TO DETECT EMERGENCIES

Mr. GENSLER. We meet as a Commission in a closed-door meeting every Friday, and we have for 30-plus years, and we put it in the Federal Register, people know we do this, to do surveillance on markets, from the grain markets to the interest rate markets to the energy markets.

And we have about 50 to 55 people in a surveillance unit that bring information to us in these closed-door sessions every Friday. The energy markets come up, as you would think, as a regular basis, as the grains do and the financials.

The staff is always tasked to come and bring to us matters, if they see issues, in these marketplaces. I mean I'm trying to—

Senator DURBIN. I understand the nature of your answer. I think you are carefully avoiding saying whether there's been any specific factual inquiry on anything until you have satisfied the first question.

Don't let me put words in your mouth, stop me at any point here. First question, about your authority, historic precedence, before you go to the next question, which will be raised by this bill and by the letter from the Senators, as to whether or not your authority can or should be exercised when it comes to gasoline prices.

SURVEILLANCE MEETINGS

Mr. GENSLER. But I want to assure you and the American public, our staff, even though it's, I believe, underfunded, our staff every day and every week is bringing to the Commission concerns if they think they see manipulation in these markets, if they think they see something about position limit violations and the like.

We're not waiting for anybody to say what the limits of emergency authority are. I mean, our agency, again, not a pricing agency, it is to ensure transparent markets, free of fraud and manipulation, and the people are following the rules of the road.

Senator DURBIN. Now, I'm going to ask a question. I already know the answer.

Can you tell me if your staff has produced any information for CFTC to consider at these weekly meetings relative to rising gasoline prices and the impact of speculation on oil futures?

Mr. GENSLER. We look at the statistics on a pretty regular basis. We actually publish to the market every Friday the size and scope

of the nonproducer merchant side, the speculative side, of the markets.

So we're looking at that, in the natural gas markets, in the heating oil markets, the oil markets, on a very regular basis.

Senator DURBIN. Are these Commission meetings public?

Mr. GENSLER. They're closed-door meetings under the Sunshine Act, but we publish, we put in the Federal Register every week, that we have these Friday meetings.

Senator DURBIN. You announce the meetings are taking place?

Mr. GENSLER. Yes. Oh, absolutely.

Senator DURBIN. But not the substance of your discussions?

Mr. GENSLER. That's correct, because we're talking about confidential information that the Congress has actually directed us under Commodity Exchange Act section 8 not to disclose material, about individuals and their transactions.

POSITION LIMITS

Senator DURBIN. I've gone way over my time. I'm going to yield back to Senator Moran for another round of questions, if he has them.

But the last thing I want to say is, CFTC has adopted a rule to implement position limits on 28 commodities including oil contracts as soon as the joint rule between CFTC and SEC defining swap is adopted, the rule-implementing position limits will go into effect?

Mr. GENSLER. For the spot month limits, that is correct.

Senator DURBIN. And, can you give me any indication of how soon that will occur?

Mr. GENSLER. We stand ready at CFTC to move forward whenever the SEC gives us the full document.

Senator DURBIN. Well, since we fund SEC, we'll tell them, at least, I'll tell them, to hurry along. I'm not sure if my colleague agrees with that position.

But I want to do it right. And I understand their work has been challenged in court, as yours has been, and most other agencies have faced. I want them to do it right, but I want them to do it in a timely way.

Senator Moran.

SPECULATION

Senator MORAN. Chairman, again, thank you.

Chairman Gensler, this conversation about speculation in the oil market, you indicate that about 85 percent of the crude oil futures market is made up of speculators.

Mr. GENSLER. Well, financial actors and speculators.

Senator MORAN. And the difference between financial actors and speculators?

Mr. GENSLER. Well, people, colloquially, use the word, but some swap dealers are part of that 85 percent, and they are helping others hedge. They have producers and merchants on the other side.

So the 80 to 85 percent are swap dealers, hedge funds, money managers, even pension funds sometimes are investing. And hedgers and speculators meet in a marketplace, but some financial actors would prefer not to be called speculators.

Senator MORAN. And I think your testimony was an indication that with that magnitude of speculation, there is a consequence to the price, either up or down, that's what you were indicating in the studies is what the consequence is, but there is a consequence to that level of speculation?

Mr. GENSLER. Well, I think that every participant in a marketplace can influence a price. Again, we're not a price-setting agency, but it's critical I think that we have an agency that brings a bright sunshine to that market, that it's transparent, free of fraud and manipulation.

We use the position limits to help limit any one sort of speculative party's footprint in the market place.

Senator MORAN. I just would indicate that when we use the word "speculation", it seems to have developed a negative connotation.

Mr. GENSLER. Not to me.

Senator MORAN. And you did differentiate between different, within that 85 percent, there's different actors.

Mr. GENSLER. That's correct.

Senator MORAN. And I think there's always a suggestion out there in today's media world, that speculation is something that causes bad things to happen.

But you just indicated that's not your belief. In fact, speculation, what benefits arise from those who speculate in markets, in the oil market.

GENESIS OF THE MARKET

Mr. GENSLER. I'd be glad to answer that.

I think that going back to the genesis of this market, and it happened in Senator Durbin's State, in Chicago, in the 1860s, when a wheat farmer or somebody growing corn, they needed to lock in a price at harvest time.

And they wanted to lock in that price so they could focus on what they really did well, and tilling the field, and so forth. And so they needed somebody on the other side, and the party on the other side is what we call a speculator.

So there's the hedger, the natural hedger, meeting the speculator in the marketplace, probably since Roman times. In the 1920s, the Congress said we need to regulate so that it's transparent.

And so we were founded inside the Department of Agriculture, and then by the 1970s, we became a Commission and you know the history.

But it's still a marketplace where hedgers and speculators meet. That the natural hedgers need to meet somebody on the other side. But what's critical is that we have clear rules of the road against manipulation.

I believe that the position limit authority is that no one speculator sort of has this big footprint, and that we have great transparency in the marketplace.

Senator MORAN. Speculation is useful to the economy including in establishing a market for oil and gasoline. And I guess the point you make is that you want to be careful about the magnitude of any one individual's position within that market.

Mr. GENSLER. That's right. That's right.

Senator MORAN. Thank you, Mr. Chairman. Mr. Chairman, I need to go to the Department of Homeland Security Appropriations Subcommittee hearing.

FUNDING NEEDED FOR NEW RESPONSIBILITIES

Senator DURBIN. Thank you very much, Senator Moran. You've been very patient. I thank you for that.

I want to kind of move into another area here and probably make a statement and ask you a question along the way.

Your current-year appropriation is in the range of \$205 million.

Mr. GENSLER. Yes.

Senator DURBIN. The President had requested close to \$300 million, I believe, for this current fiscal year.

Mr. GENSLER. Right. Correct, \$308 million.

Senator DURBIN. And so what you were given is dramatically less than the President's budget and less than what the Senate had suggested.

And my feeling is that your agency, based on your testimony and the clear evidence we have, needs more resources to deal with the challenges that you are facing and that we've given you by law, passed by the Congress, signed by the President.

It isn't as if you're dreaming up new assignments. We're sending them your way in volume as we move you from the well-known marketplaces like Chicago, which I'm very proud to represent, to a new world of swaps and over-the-counter (OTC) trading, that is dramatically larger in volume.

For the record, what is the difference if we can speculate, I guess we can do that here, if we can speculate, the difference in size between that regulated marketplace that we can see on the street in Chicago and what is going on over the counter?

What's the difference in size?

Mr. GENSLER. It's about eight times the size in terms of the aggregate dollar amounts. There's \$300 trillion notional in swaps, which is \$20 for every \$1 of goods and services produced by America.

Senator DURBIN. That is an indication of new assignments coming your way, to deal with that market, and to try to have appropriate oversight.

And so when the President asks for more resources, it's because you have a new and large responsibility coming.

Mr. GENSLER. That's right.

Senator DURBIN. Now, I have said to my friends in the industry, the Chicago Mercantile Exchange (CME), and others, that I have felt their position since I have been a Congressman and Senator, has been very clear and concise.

They believe that their strength in the marketplace is the fact that they do follow the rule of law. They are subject to oversight. There is transparency, and it is rare, I wouldn't say never, but it is rare that an embarrassing situation arises.

And that marketplace becomes a magnet for people all around the world because of those features. And that all depends on appropriate regulation from my point of view. And I think from theirs too. I don't want to put words in their mouth.

Now, there are people who argue that if the Congress does not give you the resources to do your job, appropriate regulation of not only the existing marketplace, but new market responsibilities like OTC, that the alternative should be a user fee, a transaction tax, mirroring the example of SEC, which generates its annual budget through fees collected.

And now is linked up more closely to the collection to the actual budget that they have to spend. And I, for one, have had misgivings about that because I question what will that do to the competitiveness of the American marketplace or CME, for example, against other countries with marketplaces that don't charge the same user fee or transaction tax.

Does it create a competitive disadvantage for the United States in what has become a global industry? For the record, would you like to tell me your position or your belief about this issue?

Mr. GENSLER. My position is I would like to work with the Congress on whatever helps get the funding, and so, I don't have a philosophic bias on this.

I believe that just as in the securities field, the transaction volume is so significant that it would end up being a very small fee if the Congress wanted to move forward on it.

Senator DURBIN. Well, let me take a step beyond where conversations have been in the past, and ask you, if you included the OTC market in this user fee, transaction tax, whatever you want to characterize it, what you've said to me is that it is dramatically larger than the marketplaces that we're aware of, the exchanges we're aware of.

And that, do you include that in, when you say it would be a very small fee?

Mr. GENSLER. Oh, absolutely. I think that if the Congress were to work on this, that it would be appropriate, it would be spread across the swaps marketplace if it included futures.

In this \$300 trillion swaps marketplace that we're supposed to oversee, we have a \$300 million budget, so just the arithmetic, that's \$1 of budget request, \$1 of budget for every \$1 million in the swaps market, just to give a sense of the scaling.

Senator DURBIN. What I've said to my colleagues on both sides of the Rotunda is that if we do not adequately finance your agency to keep up with the responsibilities that have been sent your way, and the dramatic increase in the volume of trading in the traditional markets, that there will be growing pressure for some other funding source.

And I hope that we rise to the occasion. I hope that we find the financing and appropriations to meet the President's request in the next fiscal year.

FEAR OF GROWTH

The last question is this: There is always a fear, I've served on the appropriation committees in the House and the Senate that we're giving an agency too much money too fast. And that the net result of it will be waste and bad decisions.

To take your budget of \$200 million and increase it by 50 percent in a 12-month period of time is a pretty daunting assignment. Now, you've said, most of it will go to technology, and I'll let you say for

the record, how much of that is scheduled, that you can see, it's going to happen.

We are just moving along a path we had already created to create the technology that we need. But 40-percent-plus will be in new hires, and that too, is a challenge, to come up with the talent you need in your agency. I have visited your office in Chicago. I have met with your people.

You have some extraordinarily talented people. The folks who would like to get on the floor and kick around Federal employees ought to sit down for 5-minutes with your staffers in Chicago and tell me that they can even comprehend what they do for a living, let alone dismiss it as wasteful bureaucracy.

So tell me about increasing your budget by 50 percent in 1 year, and whether this can be spent in a way that a year later you could come before us and say we saw it coming. We're ready, and will spend it well.

Mr. GENSLER. I thank you for those comments, and I'll pass them on to the staff, particularly in Chicago.

I'm very proud of what they've been able to do. I think we can, but just as you worked with us last year, I think you had been conscious of that and I think it's called 2-year money, as a term of art is not incorrect, but I think that we could work with you.

And, you know, how to ensure that we just didn't waste any taxpayer dollars. I mean, we're not going to put money to work if we can't hire the right people. So to hire 300 people in a year is a significant endeavor.

The sooner we would know it, obviously, the better, if we end up in a process where this is after October and then continuing resolutions, then we have to be realistic that it would probably be best that it's put off into 2013 and 2014.

But I think the sooner we'd know it, we would work with you to make sure we would never waste any taxpayer money.

Senator DURBIN. Thank you, and thanks for your patience. I apologize again for being late, and I know we'll continue to work with you as we prepare the appropriations bills.

We have a deeming resolution that has been filed this week in the Senate by Senator Conrad of the Senate Budget Committee which reflects the statutory bipartisan agreement on spending levels.

There is some difference of opinion between the House and the Senate now as to whether that is going to be the guiding rule or some other effort will be intervening, but I think the Senate is likely to proceed based on this bipartisan law signed by the President.

And I'm hoping that we can move on it on a timely basis to meet your last observation. The later in the process you are given notice, the less time you have to make it work right.

And for your agency, for all those regulated by it, and for the taxpayers of this country, we ought to do our best to avoid that problem. Thank you very much for being here.

Mr. GENSLER. Thank you, Mr. Chairman.

SUBCOMMITTEE RECESS

Senator DURBIN. I'm going to have the subcommittee stand recessed. You may get some written questions. It's infrequent, but if you do, and could reply in a timely way, I'd appreciate it.

Mr. GENSLER. Thank you.

Senator DURBIN. Thanks.

[Whereupon, at 3:53 p.m., Wednesday, March 21, the hearing was concluded, and the subcommittee recessed, to reconvene subject to the call of the Chair.]